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File No. O. Pleaders 1/51

Legal Deptt

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Subject:— Opinions under the Bombay Pleaders Act 1920

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File No. O. Pleaders/51

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C O N T E N T S.

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		Opinions under the Bombay Pleaders Act, 1920	
1	16005 8.10.51	Sec. 25 Question whether the High Court should be moved to take disciplinary action against Shri. M.S. Patki, pleader, Panvel.	1-6

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The question for consideration is whether the High Court should be moved under section 25 of the Bombay Pleaders Act, 1920, to take disciplinary action against Shri M.S. Patki, Pleader, Panvel.

It appears that Shri Patki was engaged as a pleader by one accused named Shri Ramchandra in a criminal case against him for a traffic offence. The case came up for hearing on 16th December 1950 before Shri Abdul Ajij Patel, the Third Class Magistrate, Panvel. It was taken up by the Magistrate between 11 and 12 in the forenoon and the accused having admitted his guilt, he was convicted and fined Rs.10/-. The accused did not inform the Magistrate that he had engaged Shri Patki to defend him nor was the Magistrate otherwise aware of it. Shri Patki had not filed his vakilatnama nor did he appear at the time of hearing.

After the hearing when Shri Patki was informed by the accused of the result of the case, he came to the Court and is alleged to have -

(1) protested to the Magistrate for having taken up and decided the case on a declared holiday,

(2) told the Magistrate that a fine of Rs.10/- for a minor traffic offence was a harassment,

(3) told the Magistrate that he would go in appeal.

Further in a letter to the Hon'ble Home Minister Shri Patki has stated that the Magistrate told him that a man like the accused were in the habit of rushing their cycles even against Magistrates, and therefore the Magistrate was prejudiced against the accused. The Magistrate has denied having made such a statement or being prejudiced against the accused. According to the Magistrate all he stated was that if the suggestion of Shri Patki that these offences should be punished with a fine of a few annas was adopted, nobody would obey the law and people might dash their cycles even against Magistrates.

The conduct of Shri Patki in protesting to the Magistrate for working on a holiday, and protesting against the amount of fine and telling the Magistrate that he would go in appeal does not amount to such misconduct as would be considered a reasonable cause under section 25 of the Bombay Pleaders Act, 1920. As pointed out in Sir Jamshed Kanga vs. Kaikhusru (36 Bom. L.R. 1136)" a cause cannot be considered reasonable for taking disciplinary action against the pleader unless the pleader has been guilty of misconduct and if misconduct is proved that amounts to reasonable cause." Now here the day 16th December 1950 was admittedly declared a holiday as a day of mourning for the demise of Sardar Vallabhbhai Patel. The Magistrate received intimation of the holiday at 1 P.M. that is long after he had decided the case, But Shri Patki remained absent and did not attend in the belief that no work would be done as it was a holiday. Therefore his protest to the Magistrate about working on a holiday can be said to be based on an honest misunderstanding. It is true that he should not have protested against the amount of fine but it does not appear that thereby he was imputing motives to the Magistrate. His telling the Magistrate that he would go in appeal cannot be said to be a threat to the Magistrate but an expression of his belief that it was wrong to h hear and decide a case on a holiday.

As regards the alleged false x statement of Shri Patki in his letter to the Hon'ble the Home Minister it appears that there again there has been room for misunderstanding. The Magistrate did observe that if the fine was small there would be no respect for law and the cyclist would dash against even Magistrates. Shri Patki failed to realise that this was a general observation and did not refer to this particular

accused. Therefore Shri Patki's statement in his letter above referred to was probably due to a misunderstanding.

In the circumstances this is not a proper case for moving the High Court for action against Shri Patki under section 25 of the Bombay Pleaders Act, 1920.

Id/-J.R.D. 8/10
Remembrancer of Legal Affairs.

U.R. to H.D. No. 16005, dated the 8th October 1951.

BKS. 22/6/ 46.